

REMARKS

Original claims 1 – 102 are pending.

Applicant appreciates the Examiner taking time to conduct a telephonic interview on March 5 in connection with this case. Applicant believes the discussions were helpful to clarify the interpretations of the prior art as set forth by the Examiner, and to better elucidate the differences present in the pending claims.

Claim 1 (and independent claims 11, 23, 30, 34, 37, 44, 65, 71, 76, 81, 82, 83, 84, 88, 92, 94)

Applicants note that the claims were rejected under a single §103 count in light of Mori (U.S. Patent No. 6,044,363) in view of Barzilai (US Patent No. 6,012,045), Godin (U.S. Patent No. 6,266,652), Aggarwal (U.S. Patent No. 6,151,589) and Rackson (U.S. Patent No. 6,415,270). These rejections are addressed below through amendment, traverse, and argument.

Based on the telephonic interview discussions, Applicants have further amended some of the claims to note the differences over Mori and the other cited references, particularly as concerns the aspect of the invention which allows for true “mutual exclusivity” in a multi-item auction scenario. Thus, as discussed at the interview and shown below, Applicant does not believe that Mori teaches the type of auction process specified in claim 1, wherein a bidder can ensure that, even if they bid on two separate items with two separate bids, such bids are treated as mutually exclusive.

As discussed, Mori simply allows a bidder to use multiple rules for a single auction item. This type of flexible rule specification for an item could be used with embodiments of the present invention as well. The Mori auction engine however, does not correlate a ranking relationship between separate auction items.

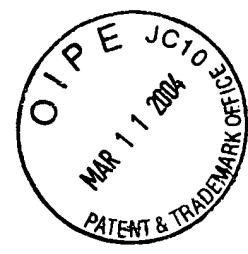
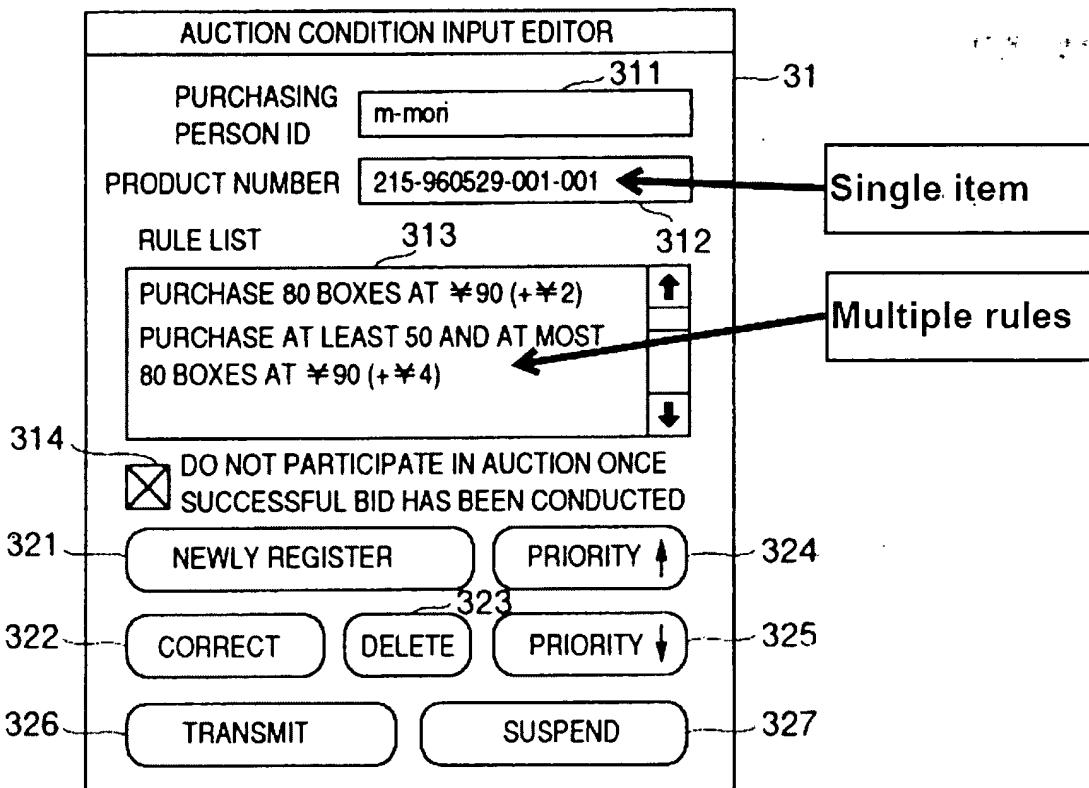


FIG.4



The fact that this entry in Mori is only a single auction item can be seen with reference to FIG. 3 of Mori, where the Examiner will note that product number 215-960529-001-001 is identified as a separate auction item from product number 215-960529-001-002. But in Examining FIG. 6 of Mori below, the Examiner will note that the bidder does NOT have any control between two separate auction items, because the auction system does not correlate between items.

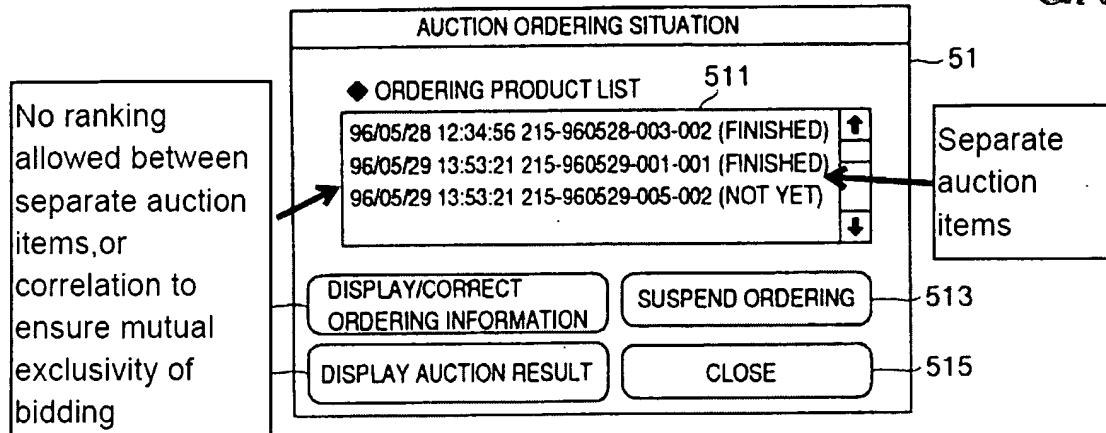


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FIG.6



Accordingly, in the Mori auction process, there is nothing really which correlates between two auction items to ensure that there is mutual exclusivity between two separate items.

Applicant has modified the language of claim 1 to clarify this distinction and make it more apparent over the prior art, including Mori. To wit, claim 1 now reads:

“....further wherein said bidder can specify that a set of ranked bids submitted by such bidder for a set of items should be treated as mutually exclusive such that the electronic auction determines at most a single item to be awarded to said bidder from said set of ranked bids by correlating a ranking relationship between separate items bid on by said bidder.” (emphasis added)

Since Mori and the other prior art neither teach nor suggest such type of operation, Applicant submits that the present rejections should be withdrawn. Similar amendments were made to claims 11, 30, 34, 37, 44, 65, 71, 76, 81, 83, 84, 88, 92, 94 and for this reason these claims should be allowable as well.

The only significant distinction is that claim 23 (and 82) do not require that the relationship between items which is correlated be a “ranking” per se, but it could be some other parameter. For example, in a golfing reservation application, a duration, capacity, expiration period, etc. of different tee time “items” could be correlated instead.

Nonetheless, Applicant submits that they have been amended to clearly distinguish over the prior art of record.

The claims dependent on such independent claims are believed to be allowable for the same reasons, and for the reasons already set out in the earlier record.

Claim 6 (and dependent claims 7 -10)

Claim 6 was also discussed, including the rejection in light of Barzilai under 35 USC § 103. As the Applicant explained, this claim is directed to another aspect of the inventions, namely, letting bidders monitor certain select bid information for an electronic auction. The distinction here is that the prior art has no mechanism for permitting bidders to see both “**... a current highest unconditional bid price specified by a bidder and information relating to any conditional bids specified by other bidders for said item.**” The conditional bids are identified as bids which are not considered by an auction processing engine until and unless they become unconditional bids during an auction period associated with such item.

As the Applicant further noted, the excerpt from Barzilai identified by the Examiner (col. 13, ll. 30 – 50) does not appear to disclose this limitation of the claim. Instead, it simply looks to be a simple table identifying all the actual (unconditional) bids made for the various items.

The difference is significant because by allowing bidders to see so-called “conditional” bids for an item, this helps to stimulate bidding for such item. For example, if a user has entered an unconditional bid for an item, but then notices that a conditional bid is higher than his/her bid, this can act as a motivator for such user to increase their bid. This is but an example, of course, and the Examiner can clearly contemplate similar scenarios embodied by the claim.

Given this distinction, Applicant submits that claim 6 clearly differentiates over such reference, and thus reconsideration of the rejection is requested. Claims 7 – 10 dependent on claim 6 are believed to be allowable for the same reasons, and for the reasons already set out in the earlier record.

Claim 27 (and dependent claims 28 – 29)

Claim 27 was not discussed during the interview, as the Applicant had not had a chance to fully consider the Rackson reference, and any relevance it may have to such claim. After reviewing Rackson, Applicants have amended claim 27 to better distinguish over such reference, and therefore request reconsideration of the rejection of such claim.

While it is somewhat vague on details, Rackson's system appears to be a form of bid "broker"; it does not "resolve" the actual auction bids, i.e., evaluate competing bids to determine a winning bid. *See, e.g.*, col. 23, ll. 30+ where it describes the system as a "...multi-auction service." It merely submits the bids to the separate remote auction engines.

In other words, in Rackson, the bidding system operates as so:

- a bidder is allowed to enter a bid for an item using certain flexible rules; (see step 600 in FIG. 12; and the rules at FIG. 14)
- the bid broker decides which auction system should receive a single bid (see step 650)
- the bid broker checks on the bid periodically, and modifies it in accordance with any instructions from the bidder

Notably, in Rackson, as can be seen in FIG. 14, the broker only presents a single user bid to a single remote auction system at a time. This is necessary, of course, because otherwise if it were presented to more than one system Rackson has no mechanism for ensuring that the user's bid might be satisfied more than once. This can be confirmed from Rackson at col. 23, ll. 53 – 55.

Thus, to better clarify this difference over Rackson, the Applicant has modified claim 27 to read:

"... wherein both said first bid and said second bid are considered at the same time by a single auction resolution system which resolves and identifies a winning bid for said first auction item and second auction item respectively

Since Rackson is not an auction resolution system, does not present more than one bid at a time to any such system, and has no teaching or suggestion to perform such function, Applicant submits that the claim clearly distinguishes over such reference. Claims

28 and 29, which depend from claim 27, are submitted to be allowable for the same reasons, and for the reasons of record.

Claims 51, 57 and 85

These claims were also discussed during the interview. As noted by the Applicant, the cited reference (Aggarwal) does not really teach the invention of these claims, and this is demonstrable from a simple example shown below.

To begin with, Aggarwal explicitly indicates that when auctioning an item, the “premium” bidders are first identified. But, according to Aggarwal, such bidders are specified solely based on a bid “price” they have provided. The Examiner will clearly note that this is not the same as considering a bid “ranking” identified by a bidder as set out in claims 51, 57 and 85.

Demonstrative Auction Table as handled by Aggarwal

ITEM	BIDDER		
	A	B	C
X	10	5	8
Y	15	10	3
Z	3	2	1

The universe of bidders considered by Aggarwal for each item are noted in **bold**. Thus, in the Aggarwal handling of the auction process, Bidders A and C would be considered for item X (if the threshold for premium bidders is 8) and Bidders A and B would be considered for Item Y (if the threshold were 10). Depending on the threshold specified, some, all or none of the bidders would be considered for item Z. The universe of bidders for each item is noted in bold.

Demonstrative Auction Table as handled by Invention of Claim 51

ITEM	BIDDER		
	A	B	C
X	10 (1)	5 (2)	8 (3)
Y	15 (2)	10 (1)	3 (1)
Z	3 (3)	2 (3)	1 (2)

The universe of bidders for each item are again noted in bold, and the Examiner can see that they are quite different from Aggarwal. In the table above, even though the exact same bid prices are provided, the respective rankings specified by the bidders are also noted in parentheses and considered during the auction process. Thus, in the handling of the auction process, only Bidder A is considered for item X; for item Y, Bidders B and C are initially considered. No bidders are initially considered for item Z, as none has specified it as a highest rank.

It can be seen quite clearly from this simple example that the inventive process is quite different, in that the primary determinant in determining a universe of bidders for an item is bid rank, not just bid price. Again, it should be noted that embodiments of the present invention may also specify a threshold in determining which bidders are considered for an item (ala Aggarwal), even if such bidders have identified a bid for such item as their highest.

Based on the above, Applicant submits that the invention of claims 51, 57 and 85 clearly distinguish over the prior art. Claims 52 – 56, 58 – 64 and 86 – 87 dependent on claims 51, 57 and 85 respectively are believed to be allowable for the same reasons, and for the reasons already set out in the earlier record.

CONCLUSION

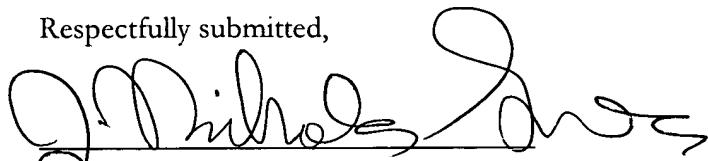
Where appropriate, Applicant has amended the claims with various limitations to better clarify aspects of the present invention and their distinctions over the prior art. Thus, Applicant requests reconsideration of the rejections, and allowance of the pending claims.

The Applicant also wishes to note that the present application contains numerous inventions, as embodied in the varied types of claims presented herein. Accordingly, the Examiner is directed to please note that the claims do not stand or fall together. For any particular claim, in the absence of explicit language included by the Applicant reciting a particular limitation, no implication is made, and no inference should be drawn by the Examiner, that such claim has been amended and/or includes such particular limitation. Thus, each claim should be considered on its own, and for its own distinctive patentable

features as expressed therein, and not by reference to any other discussion or claim presented herein.

A petition and fee for a one-month extension of time to respond to the Office Action is being filed herewith. Please charge any such fees, including fees for the new claims submitted, to deposit account no. 501-244.

Respectfully submitted,



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I hereby certify that the foregoing is being deposited with the U.S. Postal Service, postage prepaid, to the Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450, this 8th day of March 2004.